

REMARKS

Claims 1-27 are in the case.

Claims 1-18, 21, and 23-27 stand rejected under 35 U.S.C. 102(e) as being anticipated by Ye U.S. Patent 6,374,227 (hereinafter "Ye").

The Ye patent is an optimization tool. Applicants' invention as claimed, on the other hand, includes preparing and structuring communications between shippers and carriers for purposes that include offering and contracting for freight services, not solely for collecting bids for a shipper's planning purposes.

The Ye patent disclosure and Applicants' invention as claimed in the present patent application are "two completely different animals." The Examiner's attention is directed to the differences between the Ye patent and the present patent application, including, namely, that the process of the present application does not involve either an optimizer file or an optimizer engine, but rather covers a business method between shippers and carriers, a method for shippers to make decisions about carriers, and a method for carriers to make decisions about loads.

The present application is unique in that it claims a communication between shippers and carriers. It does not have an optimization file because it does not contain resource allocation data, and it is not an engine because the system acts like a

Serial No.: 09/742,847
Group Art Unit: 3624

communication device and allows carriers/shippers to talk to each other.

Regarding independent Claim 1 and all of the claims dependent therefrom, Applicants' invention as claimed requires that shippers and carriers utilize a communication network to offer actual loads. The mechanism and description of the load offering are further described and defined by the dependent claims that follow the independent Claim 1.

The Examiner takes the position that regarding independent Claim 1, Ye discloses a system and method for optimizing the allocation of a resource comprising: load posting means enabling a shipper to post information indicative of loads on a communication network, load viewing means enabling a carrier to view said information indicative of said loads, and bid placing means enabling said carrier to place bids on said communication network for carrier-selected ones of said loads.

Applicants submit, on the other hand, that Applicants' Claim 1 and the claims dependent therefrom are different from the Ye disclosure in that the ability to offer actual loads and the utilization of the communication network for shippers to offer loads are not disclosed by Ye.

As indicated herein above in respect to Claim 1, Applicants' independent Claim 24 and the claims dependent therefrom recite

Serial No.: 09/742,847
Group Art Unit: 3624

that shippers and carriers utilize a communication network to offer and accept loads. The mechanism and description of the load offers are further proscribed by the dependent claims that follow the independent Claim 24.

The Examiner takes the position that regarding Claim 24, Ye discloses a system and method for optimizing the allocation of a resource comprising enabling a shipper to post information indicative of loads on a communication network, enabling a carrier to view said information indicative of said loads, and enabling said carrier to place bids on said communication network for carrier-selected ones of said loads.

As indicated herein above for Claim 1, on the other hand, Applicants' Claim 24 is different from the Ye disclosure in that the ability to offer actual loads and the utilization of the communication network for shippers to offer loads are not disclosed by Ye.

The Examiner takes the position that, regarding Claim 27, Ye teaches a system and method for optimizing the allocation of resource comprising:

"load posting means enabling a shipper to post information indicative of loads on said communication network, said information indicative of loads including type of load, type of carriage means required, required delivery time and date, city, state, and zip code of point of origin of load, city, state, and zip code of destination of load and shipper requirements for said loads;

Serial No.: 09/742,847
Group Art Unit: 3624

load viewing means enabling a carrier to view said information indicative of said loads, said load viewing means including search means enabling said carriers to search for type of load, type of carriage means required, required delivery time and date, city, state, and zip code of point of origin of load, city state, and zip code of destination of loads as well as means for selecting back hauls; and

bid placing means enabling said carrier to place bids on said communication network for carrier-selected ones of said loads including means for placing time limits;

evaluation means enabling said shippers to evaluate said bids and place information indicative of awarded contracts for shipper selected ones of said bids on said communication network;

and confirmation means enabling said carriers to place information indicative of acceptance of carrier selected ones of said awarded contracts on said communication network."

Applicants submit, on the other hand, that Applicants' independent Claim 27 requires the ability to offer actual loads, and the utilization of a communication network for shippers to offer loads, neither of which are disclosed by Ye. Applicants' independent Claim 27 recites that shippers and carriers utilize a communication network to offer loads. The mechanism and description of the load offering are further provided in the limitations set forth in the dependent claims that follow the independent Claim 27.

For the foregoing reasons, the rejection of Claims 1-18, 21, and 23-27 under 35 U.S.C. 102(e) as being anticipated by Ye U.S. Patent 6,374,227 (hereinafter "Ye") is believed to be based on an

Serial No.: 09/742,847
Group Art Unit: 3624

insufficient reference and further is based on an improper reference and is respectfully requested to be withdrawn.

Claims 19-20 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ye U.S. Patent 6,374,227 (hereinafter "Ye").

Applicants' Claims are independently different from the Ye disclosure wherein the Examiner takes the position that Ye teaches that information regarding loads consists of any information pertinent for selection of carriers. The Examiner admits that Ye fails to specify information indicative of one or more groups of carriers, and load viewing means restricts viewing of one or more loads to the specific carrier or groups of carriers. The Examiner takes Official Notice that restricting requirements are old and well known in the art. The Examiner takes the position that, therefore, it would have been obvious at the time of the Applicants' invention to modify the teachings of Ye to include information indicative of one or more groups of carriers, and load viewing means restricts viewing of one or more loads to the specific carrier or groups of carriers because it provides a shipper desired restriction for the transportation of resources.

Applicants object to the Examiner taking judicial notice to facts which are not part of any prior art disclosure in the case, and Applicants respectfully submit that a reference is required.

Serial No.: 09/742,847
Group Art Unit: 3624

Applicants' Claims 19-20 are significantly different from the Ye disclosure. The Examiner takes the position that Ye teaches that shippers use optimizers to negotiate the bids placed between carriers and shippers. The optimizer is a strategic decision support tool used by the shippers. Ye fails to specify that the optimizer may be controlled by a third party entity such as a logistics company or freight broker. The Examiner takes Official Notice that third party involvement in an auction network system is old and well known in the art. Therefore, the Examiner determines that it would have been obvious at the time of the Applicants' invention that the teachings of Ye could have been modified to include allowing the optimizer to be run by a third party entity such as a logistics company or freight broker because third parties are often connected to a network and provide unbiased support to financial transactions.

Applicants' Claim 22 further is different from the Ye disclosure, and the differences are important to the operation of Applicants' invention as claimed. Applicants object to the Examiner taking judicial notice to facts which are not part of any prior art disclosure in the case, and Applicants respectfully submit that a reference is required.

For the foregoing reasons, the rejection of Claims 19-20 and 22 under 35 U.S.C. 103(a) as being unpatentable over Ye U.S.

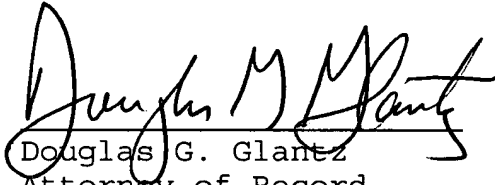
Serial No.: 09/742,847
Group Art Unit: 3624

Patent 6,374,227 is believed to be based on an insufficient reference and further is based on an improper reference and is respectfully requested to be withdrawn.

The prior art made of record has been reviewed and is not believed to be the basis of citation for any rejections of Applicants' Claims in the present application.

Applicants request reconsideration and earnestly solicited allowance of all claims of this application.

Respectfully submitted,


Douglas G. Glantz
Attorney of Record
Reg. No. 29,640

June 30, 2004

Douglas G. Glantz
Attorney At Law
5260 Deborah Court
Doylestown, PA 18901-1949
Voice: (215) 794-9775
Fax: (215) 794-8860
DGG/mnr